

Senate Bill No. 1414

Passed the Senate August 26, 2014

Secretary of the Senate

Passed the Assembly August 25, 2014

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2014, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 380 of, and to add Section 380.5 to, the Public Utilities Code, relating to electricity.

LEGISLATIVE COUNSEL'S DIGEST

SB 1414, Wolk. Electricity: demand response.

(1) The Public Utilities Act requires the Public Utilities Commission, in consultation with the Independent System Operator, to establish resource adequacy requirements for all load-serving entities, as defined, in accordance with specified objectives. The definition of a “load-serving entity” excludes a local publicly owned electric utility. The act requires each load-serving entity to maintain physical generating capacity adequate to meet its load requirements to provide reliable electric service. The act requires the Public Utilities Commission to determine the most efficient and equitable means for achieving prescribed objectives.

The Warren-Alquist State Energy Resources Conservation and Development Act establishes the State Energy Resources Conservation and Development Commission and requires it to undertake a continuing assessment of trends in the consumption of electricity and other forms of energy, to analyze the social, economic, and environmental consequences of those trends and to collect from electric utilities, gas utilities, and fuel producers and wholesalers, and other sources, forecasts of future supplies and consumption of all forms of energy. That act requires the State Energy Resources Conservation and Development Commission, beginning November 1, 2003, and every 2 years thereafter, to adopt an integrated energy policy report that includes an overview of major energy trends and issues facing the state.

This bill would include, as an objective for the resource adequacy requirements referenced above, establishing new or maintaining existing demand response products and tariffs that facilitate the economic dispatch and use of demand response that can either meet or reduce an electrical corporation's resource adequacy requirements, as determined by the Public Utilities Commission. The bill would additionally require each load-serving entity to

maintain both electrical demand response and physical generating capacity adequate to meet its load requirements. The bill would require the Public Utilities Commission to determine the most efficient and equitable means to ensure that investments are made in new and existing demand response resources that are cost effective and help to achieve electrical grid reliability and the state's goals for reducing emissions of greenhouse gases. The bill would require the Public Utilities Commission to ensure appropriate valuation of both supply and load modifying demand response resources and to establish a mechanism to value load modifying demand response resources, including, but not limited to, the ability of demand response resources to help meet distribution needs, transmission system needs, and to help reduce a load-serving entity's resource adequacy obligation. The bill would require the Public Utilities Commission, State Energy Resources Conservation and Development Commission, and the Independent System Operator to ensure that changes in demand caused by load modifying demand response are expeditiously and comprehensively reflected in the integrated energy policy report forecast, as well as planning proceedings and associated analyses, and encourage reflection of these changes in demand in the operation of the grid. The bill would require the Public Utilities Commission, in establishing a demand response program, to take certain actions.

(2) Under existing law, a violation of the Public Utilities Act or an order or direction of the Public Utilities Commission is a crime.

This bill would be part of the Public Utilities Act and an order or other action of the Public Utilities Commission would be required to implement the bill. Because a violation of this bill or an order or other action of the Public Utilities Commission implementing those provisions would be a crime, and because the bill would make certain violations by a load-serving entity a crime, this bill would thereby impose a state-mandated local program by creating new crimes and by expanding the definition of existing crimes.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. (a) The Legislature finds and declares all of the following:

(1) Demand response programs and tariffs empower customers to save money and reduce pollution by making electrical demand smart, dynamic, and responsive.

(2) Demand response allows for a smarter electrical grid that reduces demand for electricity during peak hours when the grid operator would otherwise often be forced to rely on quite inefficient fossil fuel peaking plants.

(3) Demand response can play a pivotal role in integrating clean energy resources onto the electrical grid by shifting electricity usage to times when there is abundant electricity generated by renewable energy resources available and can help provide electrical capacity in southern California following the closure of the San Onofre Nuclear Generation Station and the phase out of natural gas fired powerplants that employ once-through cooling.

(4) Reducing and shifting demand for electricity through demand response can negate the need for more costly investments in powerplants and transmission lines.

(5) Increasing the role of demand response will reduce emissions of greenhouse gases and other pollutants from the electricity sector.

(6) Other regions of the United States have achieved substantial reductions in peak demand through deployment of demand response.

(b) In enacting this act, it is the intent of the Legislature to ensure that California and the Public Utilities Commission help meet the state's greenhouse gas emissions reduction goals and achieve electrical grid reliability by increasing the utilization of demand response.

(c) It is further the intent of the Legislature, in enacting this act, to ensure that the procurement, programmatic, tariff-based, and other options that the Public Utilities Commission is pursuing or may pursue in furtherance of demand response are in no way hindered or superseded by the provisions in this act.

SEC. 2. Section 380 of the Public Utilities Code is amended to read:

380. (a) The commission, in consultation with the Independent System Operator, shall establish resource adequacy requirements for all load-serving entities.

(b) In establishing resource adequacy requirements, the commission shall achieve all of the following objectives:

(1) Facilitate development of new generating capacity and retention of existing generating capacity that is economic and needed.

(2) Establish new or maintain existing demand response products and tariffs that facilitate the economic dispatch and use of demand response that can either meet or reduce an electrical corporation's resource adequacy requirements, as determined by the commission.

(3) Equitably allocate the cost of generating capacity and demand response in a manner that prevents the shifting of costs between customer classes.

(4) Minimize enforcement requirements and costs.

(5) Maximize the ability of community choice aggregators to determine the generation resources used to serve their customers.

(c) Each load-serving entity shall maintain physical generating capacity and electrical demand response adequate to meet its load requirements, including, but not limited to, peak demand and planning and operating reserves. The generating capacity or electrical demand response shall be deliverable to locations and at times as may be necessary to maintain electric service system reliability and local area reliability.

(d) Each load-serving entity shall, at a minimum, meet the most recent minimum planning reserve and reliability criteria approved by the Board of Directors of the Western Systems Coordinating Council or the Western Electricity Coordinating Council.

(e) The commission shall implement and enforce the resource adequacy requirements established in accordance with this section in a nondiscriminatory manner. Each load-serving entity shall be subject to the same requirements for resource adequacy and the renewables portfolio standard program that are applicable to electrical corporations pursuant to this section, or otherwise required by law, or by order or decision of the commission. The commission shall exercise its enforcement powers to ensure compliance by all load-serving entities.

(f) The commission shall require sufficient information, including, but not limited to, anticipated load, actual load, and measures undertaken by a load-serving entity to ensure resource adequacy, to be reported to enable the commission to determine compliance with the resource adequacy requirements established by the commission.

(g) An electrical corporation's costs of meeting or reducing resource adequacy requirements, including, but not limited to, the costs associated with system reliability and local area reliability, that are determined to be reasonable by the commission, or are otherwise recoverable under a procurement plan approved by the commission pursuant to Section 454.5, shall be fully recoverable from those customers on whose behalf the costs are incurred, as determined by the commission, at the time the commitment to incur the cost is made, on a fully nonbypassable basis, as determined by the commission. The commission shall exclude any amounts authorized to be recovered pursuant to Section 366.2 when authorizing the amount of costs to be recovered from customers of a community choice aggregator or from customers that purchase electricity through a direct transaction pursuant to this subdivision.

(h) The commission shall determine and authorize the most efficient and equitable means for achieving all of the following:

- (1) Meeting the objectives of this section.
- (2) Ensuring that investment is made in new generating capacity.
- (3) Ensuring that existing generating capacity that is economic is retained.

- (4) Ensuring that the cost of generating capacity and demand response is allocated equitably.

- (5) Ensuring that community choice aggregators can determine the generation resources used to serve their customers.

- (6) Ensuring that investments are made in new and existing demand response resources that are cost effective and help to achieve electrical grid reliability and the state's goals for reducing emissions of greenhouse gases.

(i) In making the determination pursuant to subdivision (h), the commission may consider a centralized resource adequacy mechanism among other options.

(j) The commission shall ensure appropriate valuation of both supply and load modifying demand response resources. The

commission, in an existing or new proceeding, shall establish a mechanism to value load modifying demand response resources, including, but not limited to, the ability of demand response resources to help meet distribution needs and transmission system needs and to help reduce a load-serving entity's resource adequacy obligation pursuant to this section. In determining this value, the commission shall consider how these resources further the state's electrical grid reliability and the state's goals for reducing emissions of greenhouse gases. The commission, Energy Commission, and Independent System Operator shall jointly ensure that changes in demand caused by load modifying demand response are expeditiously and comprehensively reflected in the Energy Commission's Integrated Energy Policy Report forecast, as well as in planning proceedings and associated analyses, and shall encourage reflection of these changes in demand in the operation of the grid.

(k) For purposes of this section, "load-serving entity" means an electrical corporation, electric service provider, or community choice aggregator. "Load-serving entity" does not include any of the following:

- (1) A local publicly owned electric utility.
- (2) The State Water Resources Development System commonly known as the State Water Project.
- (3) Customer generation located on the customer's site or providing electric service through arrangements authorized by Section 218, if the customer generation, or the load it serves, meets one of the following criteria:
 - (A) It takes standby service from the electrical corporation on a commission-approved rate schedule that provides for adequate backup planning and operating reserves for the standby customer class.
 - (B) It is not physically interconnected to the electrical transmission or distribution grid, so that, if the customer generation fails, backup electricity is not supplied from the electrical grid.
 - (C) There is physical assurance that the load served by the customer generation will be curtailed concurrently and commensurately with an outage of the customer generation.

SEC. 3. Section 380.5 is added to the Public Utilities Code, to read:

380.5. (a) In establishing a demand response program, the commission shall do all of the following:

(1) Establish rules consistent with state and federal law for how and when back-up generation may be used within the program and establish reporting and data collection requirements to verify compliance with those rules.

(2) Ensure the program approved for resource adequacy requirements delivers the expected results and provides ratepayer benefits.

(3) Before the implementation of a program for residential customers, establish customer protection rules regarding the participation, cost of participation, and ability to not enroll in the program. A residential customer who does not enroll in the program shall lose eligibility for rebates, discounts, and other incentives offered to customers who participate in the program. The commission shall prohibit the imposition of charges on a residential customer for not enrolling in the program.

(4) Establish a method to accurately calculate the customer's load shift at time intervals in which the customer would be eligible for demand response program payments or credits.

(5) Establish metering and monitoring policies for the program.

(b) This section does not apply to time-variant pricing as defined in Section 745, including time-of-use rates, critical peak pricing, and real-time pricing, or to similar tariffs, including peak time rebates.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Approved _____, 2014

Governor